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February 5, 2007

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VIA ELECTRONIC FILING

The Honorable Joseph J. Farnan, Jr.
United States District Court
for the District of Delaware
844 North King Street
Wilmington, DE 19801



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**Re: *NICE Systems, Inc. & NICE Systems, Ltd. v. Witness Systems, Inc.*
USDC-D. Del. - Civil Action No. 06-311**

Dear Judge Farnan:

By letter dated January 31, 2008, NICE requested that the Court schedule a new trial in this matter “at the earliest time the Court’s calendar can accommodate.” Defendant Witness Systems disagrees that a new trial should be set in this matter on the expedited basis NICE requests.

As the court knows, there are three other District Court cases pending between these parties in Georgia. Two of the cases have been scheduled for trial in the next several months; one beginning March 17th and the other May 12th, 2008. In the third case, fact and expert discovery have been complete for several months and the parties expect to receive a trial date as soon as the fully-briefed motions for summary judgment are resolved. Given that the parties will be fully occupied in back-to-back trials in Georgia for at least the next four months and possibly longer, Witness Systems respectfully submits that setting a date for a new trial in this case is premature. Any delay will not prejudice NICE, as it has already had the opportunity to present its case to a jury in Delaware and failed to carry its burden.

Respectfully,

/s/ William J. Marsden, Jr.

William J. Marsden, Jr.

cc: Counsel of Record (via ECF and e-mail)